P.714-99

G. R. S. IX-5]

Previous references.

J 1897-98.
~~191~~.
(2R)

File No. 60-97

Serial Nos. 1-7

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. ~~1-7~~ 1/17

In ~~Part~~ B for July 1899

SUBJECT.

Claim to the Patels office of Yedigur
Kunigal Taluk

W D 1250—GPB—30,000 28-1-19

Indexed

021

Before the Government of Mysore.

Appeal No. 2 of 1898-99.

Appellants.	Vs.	Respondent.
1. Venkatarama Rao. 35		Channamallappa
2. Ranga Rao. 28		
3. Ramaiah. 25		

Subject:— Dispute regarding the Patel ship of Devigere in the Hiriyal Taluk.

Before the Government of Mysore.

Appeal No. 2 of 98-99

Appellant.	Vs.	Respondent.
Venkatakrishna Naik & 2 others		Channamalla-gauda

All served. The 3rd applt Eranna applies for adjt by telegram.
29.3.99

Respt present
applts pray for adjournment.
adjourned to the 3rd July 1899.
29/3/99

Notices served

Eranna & Channamalla Gauda present.
Venkatakrishna Naik & Kempa not present.

1st h
c -

Date of plaint

Applt - Father was 60 years old when he died: I do not know that respt was applt's father.

1st v
C
(Baptiste)

your / atte upon several notices to them
issued by the amr. ff he did not do duty
for 10 years. From 1877 respt has been
Corp duty ff / From 1887 he has been
ff has been Corp duty as such dar

Ven Katakent na Naik-	age 35	when plaint was admitted
Ken-pa Naik	28	
Earanna	23	

Defendt / plaintiff 6/5/97.

Appeal dismissed

3/17/99.

(1) The appeal is on 10R Stamp
Stamp objected

(2) The order of the Deputy Commr
appealed against is dt 2nd April 98.
— Returned

(3) The judgment decree of the
Deputy Commr have not
been produced.
Petn to be returned for same (3)
Mall
4/7/98

4/7/98
Encl as petn

2/7/98

P

2

2/7/98

4/1898

(1)

No. 305 of 98-99

Name of Petitioners 1 Vaddati Krishna Naik
2 Kenga Naik
3 Gramma

Village Hebbur

Taluk Tumkur

District Tumkur

Date of Arzi 22-6-98

Date of Receipt 25-6-98

Date of Disposal

No. of Enclosure 2

ABSTRACT

This is an appeal petition.
The Counter-petitioner is Obanna
alias Gowda.

In Rev. OS. No 5 of 1896-9
on the file of the Extra Asstt:
Comm^r Tumkur District, the
petitioners sued the Counter-
petitioner for the recovery
of the Patel office of Yediur
in the Kunigal Taluk. The
suit was dismissed with
the remark that in con-
sideration of the hereditary
nature of the petitioners' right
to the office their names
should be entered as hakdars
in the Patel Register & their
claims considered on the

occurrence of a vacancy.
Both the petitioner & the counter-petitioners
appealed against the above
order on Revl. Appeals nos. 9 and 10 of 1877-78.
The Dy. Comr. ordered that
the extra Asstt. Comr. was
right in dismissing the
suit & that an entry in
the Register with a simple
remark that the claims of
the petitioners should be
taken into consideration
on the occurrence of a
vacancy. Against this
order of the Dy. Comr. the
petitioners have brought
an appeal on the following
grounds.

That the lower courts
recognized the petitioners' claim
to the Pateli office. That therefore
they were unjust in dismissing
their suit without giving decree
in their favour.

That the lower courts
paid no attention to the
records showing that
the counter-petitioner admitted
before the Amildar that
the petitioners' father had
claim to the Pateli office,
that he was his gumasta and
that he had no objection to
hand over the charge of the office to him
to the petitioners' father.)

3055

Permanent
22nd June 1898
Immediate
Post

MYSORE COURT FEE

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. NO. 3055-5-6
DATE 25-6-98

A.S. No. 2
1898-99

3 [illegible]

4 [illegible]

[illegible]

6 అపీలాంట్ తరపు న్యాయవాది వాదించుచూ ఎతిహాద్ ఎయిర్‌వేస్ సంస్థ ఇండియాలో ఆఫీసు ఏర్పాటు చేసుకోవడానికి అనుమతి ఇచ్చిన ఉత్తర్వులను ఎత్తివేయాలని కోరుతూ ఈ రిట్ పిటిషన్ దాఖలు చేసినట్లు తెలిపారు.

7 అపీలాంట్ తరపు న్యాయవాది వాదిస్తూ ఎతిహాద్ ఎయిర్‌వేస్ సంస్థ ఇండియాలో ఆఫీసు ఏర్పాటు చేసుకోవడానికి అనుమతి ఇచ్చిన ఉత్తర్వులను ఎత్తివేయాలని కోరుతూ ఈ రిట్ పిటిషన్ దాఖలు చేసినట్లు తెలిపారు. ఎతిహాద్ ఎయిర్‌వేస్ సంస్థ ఇండియాలో ఆఫీసు ఏర్పాటు చేసుకోవడానికి అనుమతి ఇచ్చిన ఉత్తర్వులను ఎత్తివేయాలని కోరుతూ ఈ రిట్ పిటిషన్ దాఖలు చేసినట్లు తెలిపారు.

8 చివరకు అపీలాంట్ తరపు న్యాయవాది వాదిస్తూ ఎతిహాద్ ఎయిర్‌వేస్ సంస్థ ఇండియాలో ఆఫీసు ఏర్పాటు చేసుకోవడానికి అనుమతి ఇచ్చిన ఉత్తర్వులను ఎత్తివేయాలని కోరుతూ ఈ రిట్ పిటిషన్ దాఖలు చేసినట్లు తెలిపారు.

9 ఈ కేసులో ప్రతివాదులు అపీలాంట్ వాదనలను తీవ్రంగా వ్యతిరేకించారు. ఎతిహాద్ ఎయిర్‌వేస్ సంస్థ ఇండియాలో ఆఫీసు ఏర్పాటు చేసుకోవడానికి అనుమతి ఇచ్చిన ఉత్తర్వులను ఎత్తివేయాలని కోరుతూ ఈ రిట్ పిటిషన్ దాఖలు చేసినట్లు తెలిపారు.

10 ఈ కేసులో ప్రతివాదులు అపీలాంట్ వాదనలను తీవ్రంగా వ్యతిరేకించారు. ఎతిహాద్ ఎయిర్‌వేస్ సంస్థ ఇండియాలో ఆఫీసు ఏర్పాటు చేసుకోవడానికి అనుమతి ఇచ్చిన ఉత్తర్వులను ఎత్తివేయాలని కోరుతూ ఈ రిట్ పిటిషన్ దాఖలు చేసినట్లు తెలిపారు.

DATE 28-7-38

By hand messenger
28. 7. 38

Refer
8/8/98

Read 5-8-98

3055 877 Endorsement

Stamp

2/8/98

Subd

LR 65-9 1 2

mg

12/8/98

1) Time

2) Stamp duty

3) Second appeal in regular

Suit for recovery of the

patch office of Zeriyan

Amaipuram in the Kumgal

Taluk

4) Counter Case

Subd 6 Rec C.V 5 S

12/8/98

Read 6-30 pm

12-8-98

229

Subd 5 1st C.V

2/9/98

9657

Read from the

Part for by

part written by

the Counter

Subd

Assistant Peshkar

6/11/98

1897 (2)

No. 267

Name of Petitioner (1) Venkatachalam Pandia

(2) Kanjamalai

Village (3) Eruvadi

Hebbar

Taluk Tiruttani

District Tiruttani

Date of Arzi 26-7-98

Date of Receipt 28-7-98

Date of Disposal

No. of Enclosure 5

ABSTRACT

1 Suit, in terms of Judgment in O.S. No. 855 of 12-7-98 Tiruttani Copy of Judgment and decree of the Extra Asst. Commr. dated [illegible]

Enclosures.

(1) Copy of Petition in O.S. No. 855

(2) Copy of Judgment in the Appeal in O.S. No. 92 of 97-98

(3) do — decree — do —

(4) Extract from Judgment in Revision in O.S. No. 57 of 96-97

(5) do — decree — do —

Read for posting

5/8/98

Defts was appointed
his own right in 1887
Pltffs' father lost his mark
by absence from the village
& by neglect of the duties.

Sent brought within 12 years.

Asst Comr dismisses suit
but registers the plaintiffs
as husbands
& Comr modifies his decree

Pet 180 P2

8-9-98

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying ~~Appeal~~ Petition

Registered No. dated

received at the Dewan's Office from

is forwarded, together with its enclosures, to the Deputy Commissioner of District for submission of the entire proceedings connected with the case.

2. The petition with its enclosures should be returned.

By order,

Chief Secretary.

BANGALORE,

8-9-1898

M.G.C.P.B.—25-4-95—1,000

98-99 Genl: Records.

Please put up Govt: orders
No: 10 & 80 dt 22/12/91 (appeal
D-43 -
No: 300 of 29-5-91), refd to
AK in the Dy Comrs decision
22/9/98

To

Vernacular Records

Please put up the references
which were put up with Petition
No 2285 dt 24-12-95 & the
Govt
Order
22/9/98

PLB 22/9/98

1896 Regd 3rd Appl 1226 } from
D 209
Appeal Petn
23-9-98
Order 1-20 dt 31-7-90 put up
with connected papers —
28-9-98

PLB 28/9/98

Submd
29.9.98

Order
29/9/98

124 B 150

General Stamp No. 30.

DEPARTMENT
2105
P 20 1898
Feb 134
REVENUE OFFICE

1895-97

From The Deputy Commissioner
Tumkur District

To The Secretary to the
Govt of Mysore, Genl
Dept.

Dated 15th September
Despatched 17th
Received 19th 1898

Enclosures No. 2 Vernacular
files

General No. 253.
No.

His official memorandum
No. 130 dated 5th September
1898.

I submit the entire
proceedings connected
with the appeals of
Venkatanarasimhaiah,
Venkatappa, Gowda
& Hebbur, Tumkur
Taluk

Petition Rs. N
17-9-98

Regd
21/9

22-9-98

Central Jail Press, Bangalore.—6-3-97.—10,002.

Amherst District.

No 233

Assistant Deputy Commissioner's office.

Date, Amherst, the 4th September, 98.

To

The Secretary to the Government of

Nigone, General and Revenue Department.

Sir,

With reference to the Government

Official Memorandum No Pet dated

180

4th September 1898 calling for the

submission of the entire proceedings

connected with the appeals of Venkata

Krishnaiah, Venaja Naik and

Ramanaiah of Nellai in re the Palace

of Yadagur in the Kunigal Taluk,

I have the honor to submit here-

-with the record connected with the

appeal Nos: 9 and 10 of 1897-98 of this

Court together with the record con-

nected with Revenue Suit No 8 of 89-90

on the file of the Extra Assistant Com-

missioner's Court, Amherst.

2 The petitions and their enclosures

received with the above Memo are

herewith returned.

I have the honor to be

Sir

Your most obedient Servant

Illegible

for Deputy Commissioner

(1)

Reg. 67

Proc. of the Govt. of Madras

Dr. 60-97-6

Appts
Venkatakrishna Iyer
naick & 2 others
(Rep. Advt.)

Respts
Chinna-
malla Gowd
& others

Read:-

Petition of Appeal No. 267 of 1898-9 presented by Venkata Krishna naick and 2 others of Kebbur village, in the Dumkur taluk, against the ~~appellate~~ decree of the Dy. Commr., Tumkur District, dismissing the Plaintiffs suit for recovery of the Patel's office of Yedyur village in the Sirnigere taluk.

2) The records received with letter No. 233 of 16-9-99 from the Dy. Commr. Tumkur Dist.

The facts of the case are as follows:-

The 1st defdt. Venkata Sanjeevanaik was the hereditary Patel of Yedyur village. Before 1876, the defdts. Linga Gowda and, after him, one Rudria were employed by Venkata Sanjivi naik as patels' gumastas. In 1876, the

Draft for Advt.
Dkd. 4/1st Committee
17/7/99

11755
Appt as above
17/7/99

Dkd. 6 2nd Committee
18/7/99

R.D. 30 Bn
18.7.99.

11/11

deft was appointed by the Amildar as ~~patil~~ pravada as Venkatasanjiva Naik absented himself from the village. As the Pltf's father failed, in spite of repeated notices from the Amildar, to reside in the village and perform the duties himself, the Dy Collector passed an order in March 1887, for directing the removal of Venkatasanjiva Naik's name from the Patil Register and for the ~~appointment of the~~ Pltf or any other qualified person, but as the Amildar reported that no person was willing to accept the office of Patil ~~he had~~ and ~~proceeded~~ to the village and ~~ordered~~ caused it to be proclaimed, the Dy Collector appointed the deft as Patil ~~absolutely~~ ~~in accordance with the recommendation of the Amildar~~ the said post being hereditary

2. In May 1887, ~~the~~ Pltf brought a suit for the recovery of the Patil office

from the defendant. The
~~Court dismissed the~~
~~Court~~ on the ground that the
Plff's failure forfeited his right
by continued absence from
his duties. ~~But in consideration~~
~~of the hesitancy nature of the~~
~~Plff and the fact that the~~
~~case cannot be tried by~~
~~limitation, ordered that~~
~~Mrs Coombs might be~~
~~restored to the portal Register~~
~~and that claims accrued~~
~~during retirement of Plaintiff~~
~~be referred to the Master.~~
~~Plaintiff the above decision~~
~~not to be made absolute~~
~~last December the Defendant~~
~~of the return of the Plff~~
~~Coombs as Master.~~ The
Plaintiff have now appealed to
Court ~~against this order~~.

Held that the Court cannot consider on dismissing the claim a

& The Plaintiff observed that the minimum of £300 cannot be taken as holden was assumption but that it may be amply won in the Reg that even claim of the Plff in the Master & Coombs

(74)

977-84 of 29/12/99
07 14 of-1899

Held
in proceedings since that the
~~the Plaintiff's~~ failure
neglected to perform the
duties since 1877. He was
given every opportunity
to resume the ~~duties~~ Office but

Hon Pltffs

failed to do so. ~~The appellants~~
and their father deserted this
village and by their own
wilful negligence and
laches, ~~they~~ lost the land.
In 1897 the Respt. was appointed
and he has continued to
perform the duties ~~ever since~~ satisfactorily and to the Court's entire satisfaction to date.
The Pltffs, aged 35, 28 and 23
years respectively, remained quiet for several years ~~after~~ and
quite after the death of their
father, and as they have, by their own conduct allowed the appellant
to remain in possession
they are now estopped
from setting up their
title. This appeal is rejected

Rejected
17/7/99

Redraft
C. & C.2

Jr. Secretary

Mud
21.7.99

To
The Hon. Chief Justice
Hon. Mr. Justice
" Mr. Justice

Issued on
Plt
after stamp
on 29/7

Press copy put up
28/7

x 95. 37 20 00 38

28/7/99 (8) 25

(3) 4

1899-1900

GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

Dated 29th July 1899

No. 977-84
Pet. F.14-99

Rejecting the appeal of Venkata-krishna Naik and two] others of Hebbur village, Tumkur taluk, for the recovery of the pateli office of Yediyur, Kunigal taluk, on the ground that their father forfeited his right to the office by continued absence from the village and negligence to perform the duties, notwithstanding repeated warning.

SBP—8-8-99—200

Proceedings of the Government of Mysore, Petition, dated 29th July 1899.

Appellants.	*versus*	Respondent.
Venkatakrishna Naik and 2 others (original plaintiffs)		Channamallegauda (original defendant)

READ—

Petition of appeal No. 237—A. S. 2 of 1898-99, presented by Venkatakrishna Naik and two others of Hebbur village in the Tumkur taluk, against the decree of the Deputy Commissioner, Tumkur district, dismissing the plaintiffs' suit for the recovery of the pateli office of Yediyur village in the Kunigal taluk.

(2) The records received with letter No. 233, dated 16th September 1898, from the Deputy Commissioner, Tumkur district.

The facts of the case are as follows :—

The plaintiffs' father, Venkatasanjiva Naik, was the hakdar patel of Yediyur village. Before 1876, the defendant's father Lingegauda and, after him, one Rudria were employed by Venkatasanjiva Naik as pateli gumastas. In 1876, the defendant was appointed by the Amildar as gumasta, as Venkatasanjiva Naik absented himself from the village. As the plaintiffs' father failed, in spite of repeated notices from the Amildar, to reside in the village and perform the duties himself, the Deputy Commissioner passed an order in March 1887 for the removal of Venkatasanjiva Naik's name from the pateli register and for the office being conferred on any other qualified hakdar. But as the Amildar reported that there was no hakdar residing in the village and owning lands therein, the Deputy Commissioner accepted the Amildar's recommendation for the appointment of the defendant as patel.

2. In May 1897, this suit was brought by plaintiffs for the recovery of the pateli office from the defendant. Both the Assistant Commissioner and Deputy Commissioner concurred in dismissing the claim on the ground that the plaintiffs' father forfeited his hak by continued absence from his duties. The Deputy Commissioner observed that the inclusion of plaintiffs' names in the register as hakdars was unnecessary, but that it may be simply noted in the register that their claims to the office will be taken into consideration on the occurrence of a vacancy. The plaintiffs have now appealed to Government.

No. 977-84—PET. F. 14-99, DATED BANGALORE, 29TH JULY 1899.

ORDER THEREON.—The proceedings show that plaintiffs' father neglected to perform the duties of the pateli in question since 1877. He was given every opportunity to resume the office, but failed to do so. Both plaintiffs and their father deserted the village, and by their own wilful negligence and laches, lost the hak. In 1887 the respondent was appointed, and he has ever since continued to perform the duties satisfactorily, and he cannot therefore be disturbed. The plaintiffs, aged 35, 28 and 23 years, respectively, remained quiet for several years and filed this suit only after the death of their father, and as they have, by their own conduct and indifference, allowed the office to pass out of their family, they are entitled to no consideration. Their suit has been properly dismissed, and this appeal is accordingly rejected.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Tumkur District, with records.
To—The Deputy Commissioners of other Districts.

Exd.—C.V.